

House File 2319 - Reprinted

HOUSE FILE 2319
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 587)

(As Amended and Passed by the House March 7, 2012)

A BILL FOR

1 An Act relating to elections and voter registration, including
2 technical administration of the law by making modifications
3 to certain filing deadlines, preservation of certain
4 records, elections to fill certain vacancies in office,
5 absentee voting, voting systems, and ballot summaries.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 39.3, subsection 7, Code 2011, is amended
2 to read as follows:

3 7. "*General election*" means the biennial election for
4 national or state officers, members of Congress and of the
5 general assembly, county and township officers, and for the
6 choice of other officers or the decision of questions as
7 provided by law and shall include a regular city election
8 described in section 376.1 to fill a vacancy in an elective
9 city office pursuant to section 372.13, subsection 2.

10 Sec. 2. Section 43.16, Code 2011, is amended to read as
11 follows:

12 **43.16 Return of papers, additions not allowed.**

13 1. After a nomination paper has been filed, it shall not
14 be returned to the person who has filed the paper, nor shall
15 any signature or other information be added to the nomination
16 paper.

17 2. a. A person who has filed nomination petitions with the
18 state commissioner may withdraw as a candidate not later than
19 5:00 p.m. on the seventy-sixth day before the primary election
20 by notifying the state commissioner in writing.

21 b. A person who has filed nomination papers with the
22 commissioner may withdraw as a candidate not later than 5:00
23 p.m. on the sixty-seventh day before the primary election by
24 notifying the commissioner in writing.

25 3. The name of a candidate who has withdrawn or died at a
26 time in accordance with this section shall be omitted from the
27 certificate furnished by the state commissioner under section
28 43.22 and omitted from the primary election ballot.

29 Sec. 3. Section 43.23, Code 2011, is amended to read as
30 follows:

31 **43.23 Death or withdrawal of primary candidate.**

32 1. If a person who has filed nomination papers with the
33 state commissioner as a candidate in a primary election dies
34 or withdraws ~~up to~~ before 5:00 p.m. on the seventy-sixth
35 day before the primary election, the appropriate convention

1 or central committee of that person's political party may
2 designate one additional primary election candidate for the
3 nomination that person was seeking, if the designation is
4 submitted to the state commissioner in writing by 5:00 p.m. on
5 the seventy-first day before the date of the primary election.
6 The name of any candidate so submitted shall be included in the
7 appropriate certificate or certificates furnished by the state
8 commissioner under section 43.22.

9 2. If a person who has filed nomination papers with the
10 commissioner as a candidate in a primary election dies or
11 ~~withdraws up to~~ before 5:00 p.m. on the sixty-seventh day
12 before the primary election, the appropriate convention
13 or central committee of that person's political party may
14 designate one additional primary election candidate for the
15 nomination that person was seeking, if the designation is
16 submitted to the commissioner in writing by 5:00 p.m. on the
17 sixty-third day before the primary election. The name of any
18 candidate so submitted shall be placed on the appropriate
19 ballot or ballots by the commissioner.

20 Sec. 4. Section 43.24, subsection 1, paragraph b, Code 2011,
21 is amended by adding the following new subparagraph:

22 NEW SUBPARAGRAPH. (03) Objections to nominations to fill
23 vacancies in the office of representative in Congress at a
24 special election held under section 69.14 shall be filed with
25 the state commissioner not less than sixty days prior to the
26 date set for the special election.

27 Sec. 5. Section 43.24, subsection 1, paragraph b,
28 subparagraph (3), Code 2011, is amended to read as follows:

29 (3) Objections to nominations to fill vacancies in the
30 general assembly at a special election held under section
31 69.14, under which the forty-day notice of election provision
32 applies, shall be filed with the state commissioner not less
33 than fifteen days prior to the date set for the special
34 election. If the forty-day notice provision does not apply,
35 objections to nominations to fill vacancies in the general

1 assembly at a special election held under section 69.14 may be
2 filed any time prior to the date set for the special election.

3 Sec. 6. Section 43.24, subsection 1, Code 2011, is amended
4 by adding the following new paragraph:

5 NEW PARAGRAPH. *c.* Objections filed pursuant to this section
6 shall be filed no later than 5:00 p.m. on the final date for
7 filing.

8 Sec. 7. Section 43.24, subsection 2, paragraph b, Code 2011,
9 is amended to read as follows:

10 *b.* If an objection is filed to a nomination to fill
11 a vacancy in the general assembly at a special election
12 held under section 69.14, under which the forty-day notice
13 of election provision of section 69.14 does not apply,
14 notice of the objection shall be made to the candidate by
15 the state commissioner as soon as practicable. Under this
16 paragraph, failure to notify a candidate of an objection to the
17 candidate's nomination prior to the date set for the special
18 election does not invalidate the hearing conducted under
19 subsection 3. The hearing to an objection shall proceed as
20 quickly as possible to expedite the special election.

21 Sec. 8. Section 43.72, Code 2011, is amended to read as
22 follows:

23 **43.72 State returns filed and preserved.**

24 When the canvass is concluded, the board shall deliver
25 the original abstract returns to the state commissioner, who
26 shall file the returns in the state commissioner's office and
27 preserve the abstracts of the canvass of the state board and
28 certificates attached thereto. The state commissioner may
29 preserve the abstracts and certificates attached thereto in an
30 electronic format.

31 Sec. 9. Section 43.88, Code 2011, is amended to read as
32 follows:

33 **43.88 Certification of nominations.**

34 1. Nominations made by state, district, and county
35 conventions, shall, under the name, place of residence, and

1 post office address of the nominee, and the office to which
2 nominated, and the name of the political party making the
3 nomination, be forthwith certified to the proper officer by
4 the chairperson and secretary of the convention, or by the
5 committee, as the case may be, and if such certificate is
6 received in time, the names of such nominees shall be printed
7 on the official ballot the same as if the nomination had been
8 made in the primary election.

9 2. Nominations made to fill vacancies in the office of
10 representative in Congress shall be certified to the state
11 commissioner not less than sixty-two days prior to the date set
12 for the special election. Nominations made to fill vacancies
13 in other offices to which this chapter applies at a special
14 election shall be certified to the proper official not less
15 than twenty-five days prior to the date set for the special
16 election. In the event the special election is to fill a
17 vacancy in the general assembly while it is in session or
18 within forty-five days of the convening of any session, the
19 nomination shall be certified not less than fourteen days
20 before the date of the special election.

21 3. Nominations certified to the proper official under this
22 section shall be accompanied by an affidavit executed by the
23 nominee in substantially the form required by section 43.67.

24 Sec. 10. Section 44.4, subsection 1, Code 2011, is amended
25 to read as follows:

26 1. Nominations made pursuant to this chapter and
27 chapter 45 which are required to be filed in the office of
28 the state commissioner shall be filed in that office not
29 more than ninety-nine days nor later than 5:00 p.m. on the
30 eighty-first day before the date of the general election to
31 be held in November. Nominations made for a special election
32 called pursuant to section 69.14 to fill vacancies in the
33 general assembly shall be filed by 5:00 p.m. not less than
34 twenty-five days before the date of an election called upon
35 at least forty days' notice and not less than fourteen days

1 before the date of an election called upon at least eighteen
2 days' notice. Nominations made to fill vacancies in the
3 office of representative in Congress at a special election
4 shall be certified to the state commissioner not less than
5 sixty-two days prior to the date set for the special election.
6 Nominations made for a special election called pursuant to
7 section 69.14A shall be filed by 5:00 p.m. not less than
8 twenty-five days before the date of the election. Nominations
9 made pursuant to this chapter and chapter 45 which are required
10 to be filed in the office of the commissioner shall be filed
11 in that office not more than ninety-two days nor later than
12 5:00 p.m. on the sixty-ninth day before the date of the general
13 election. Nominations made pursuant to this chapter or chapter
14 45 for city office shall be filed not more than seventy-two
15 days nor later than 5:00 p.m. on the forty-seventh day before
16 the city election with the city clerk, who shall process them
17 as provided by law.

18 Sec. 11. Section 44.4, subsection 2, paragraph a, Code 2011,
19 is amended by adding the following new subparagraphs:

20 NEW SUBPARAGRAPH. (03) Objections to nominations to fill
21 a vacancy in the office of representative in Congress at a
22 special election held under section 69.14 shall be filed with
23 the state commissioner not less than sixty days prior to the
24 date set for the special election.

25 NEW SUBPARAGRAPH. (003) Objections to nominations to
26 fill a vacancy in the general assembly at a special election
27 held under section 69.14, under which the forty-day notice
28 of election provision applies, shall be filed with the state
29 commissioner not less than fifteen days prior to the date set
30 for the special election. If the forty-day notice provision
31 does not apply, objections to nominations to fill vacancies at
32 a special election held under section 69.14 may be filed no
33 later than the day before the special election.

34 Sec. 12. Section 48A.30, subsection 1, paragraph a, Code
35 2011, is amended to read as follows:

1 a. The registered voter dies. For the purposes of this
2 subsection, the commissioner may accept as evidence of death a
3 notice from the state registrar of vital statistics forwarded
4 by the state registrar of voters, a written statement from a
5 member of the registered voter's household, an obituary in
6 a newspaper, an obituary on a funeral home internet site, a
7 written statement from an election official, or a notice from
8 the county recorder of the county where the registered voter
9 died.

10 Sec. 13. Section 48A.32, Code 2011, is amended to read as
11 follows:

12 **48A.32 Destruction or removal of canceled voter registration**
13 **records.**

14 Twenty-two months after the next general election following
15 the cancellation of a person's voter registration, or
16 receipt of an incomplete voter registration application,
17 the commissioner may destroy all records of that person's
18 registration, including electronic records. At the discretion
19 of the commissioner, canceled records may be donated to a
20 historical society if all confidential information has been
21 removed from the records.

22 Sec. 14. Section 49.45, Code 2011, is amended to read as
23 follows:

24 **49.45 General form of ballot.**

25 Ballots referred to in section 49.43 shall be ~~substantially~~
26 in one of the following form forms:

27 Shall the following amendment to the Constitution (or public
28 measure) be adopted?

29 Yes

30 No

31 (Here insert the summary, if it is for a constitutional
32 amendment or statewide public measure, and in full the proposed
33 constitutional amendment or public measure. The number
34 assigned by the state commissioner or the letter assigned
35 by the county commissioner shall be included on the ballot

1 centered above the question, "Shall the following amendment to
2 the Constitution [or public measure] be adopted?".)

3 Shall the following amendment to the Constitution (or public
4 measure) be adopted?

5 (Here insert the summary, if it is for a constitutional
6 amendment or statewide public measure, and in full the proposed
7 constitutional amendment or public measure. The number
8 assigned by the state commissioner or the letter assigned
9 by the county commissioner shall be included on the ballot
10 centered above the question, "Shall the following amendment to
11 the Constitution [or public measure] be adopted?".)

12 Yes

13 No

14 Sec. 15. Section 50.15A, subsection 2, paragraph a, Code
15 2011, is amended to read as follows:

16 a. After the polls close on election day for a primary
17 election, general election, or special election under section
18 69.14, the commissioner of elections shall periodically provide
19 election results to the state commissioner of elections as
20 the precincts in the county report election results to the
21 commissioner pursuant to section 50.11. If the commissioner
22 has access to the software program necessary to produce the
23 election results in an electronic format, the commissioner
24 shall provide the election results required by this section in
25 an electronic format. If the commissioner determines that all
26 precincts will not report election results before the office is
27 closed, the commissioner shall report the most complete results
28 available prior to leaving the office at the time the office is
29 closed as provided in section 50.11. The commissioner shall
30 specify the number of precincts included in the report to the
31 state commissioner of elections.

32 Sec. 16. Section 50.48, subsection 1, paragraph b, Code
33 2011, is amended to read as follows:

34 b. Immediately upon receipt of a request for a recount,
35 the commissioner shall send a copy of the request to the

1 apparent winner by certified mail. The commissioner shall
2 also attempt to contact the apparent winner by telephone.
3 If the apparent winner cannot be reached within four days,
4 the chairperson of the political party or organization which
5 nominated the apparent winner shall be contacted or, in the
6 case of an election for a nonpartisan office, the entity or
7 officer responsible for making an appointment to fill a vacancy
8 in the office shall be contacted and shall act on behalf of the
9 apparent winner, if necessary. ~~For~~ On behalf of candidates for
10 partisan state or federal offices, the chairperson of the state
11 party shall be contacted. ~~For~~ On behalf of candidates for
12 partisan county offices, the county chairperson of the party
13 shall be contacted.

14 Sec. 17. Section 52.5, subsection 2, Code 2011, is amended
15 to read as follows:

16 2. The state commissioner shall formulate, with the advice
17 and assistance of the examiners, and adopt rules governing the
18 testing and examination of any optical scan voting system by
19 the board of examiners. The rules shall prescribe the method
20 to be used in determining whether the system is suitable for
21 use within the state and performance standards for voting
22 equipment in use within the state. The rules shall provide
23 that all optical scan voting systems approved for use by the
24 examiners after April 9, 2003, shall meet voting systems
25 performance and test standards, as adopted ~~by the federal~~
26 ~~election commission on April 30, 2002, and~~ pursuant to the
27 provisions of or as deemed adopted by Pub. L. No. 107-252,
28 § 222. The rules shall include standards for determining when
29 recertification is necessary following modifications to the
30 equipment or to the programs used in tabulating votes, and a
31 procedure for rescinding certification if a system is found
32 not to comply with performance standards adopted by the state
33 commissioner.

34 Sec. 18. Section 53.18, subsection 2, Code 2011, is amended
35 to read as follows:

1 2. If the commissioner receives the return envelope
2 containing the completed absentee ballot by 5:00 p.m. on the
3 Saturday before the election for general and primary elections
4 and by 5:00 p.m. on the Friday before the election for all
5 other elections, the commissioner shall open the envelope to
6 review the affidavit for completeness. If the affidavit is
7 incomplete, the commissioner shall, within twenty-four hours of
8 the time the envelope was received, notify the voter of that
9 fact and that the voter may complete the affidavit in person
10 at the office of the commissioner by 5:00 p.m. on the day
11 before the election, or in the case of an election at which the
12 polls open at noon on election day, by 10:00 a.m. on the date
13 of the election, vote a replacement ballot in the manner and
14 within the time period provided in subsection 3, or appear at
15 the voter's precinct polling place on election day and cast a
16 ballot in accordance with section 53.19, subsection 3.

17 Sec. 19. Section 53.30, Code 2011, is amended to read as
18 follows:

19 **53.30 Ballots, ballot envelopes, and other information**
20 **preserved.**

21 At the conclusion of each meeting of the absentee and special
22 voter's precinct board, the board shall securely seal all
23 ballots counted by them in the manner prescribed in section
24 50.12. The ballot envelopes, including the envelope having the
25 registered voter's affidavit on it, the return envelope, and
26 secrecy envelope ~~bearing the signatures of precinct election~~
27 ~~officials~~, as required by section 53.23, shall be preserved.
28 All applications for absentee ballots, ballots rejected without
29 being opened, absentee ballot logs, and any other documents
30 pertaining to the absentee ballot process shall be preserved
31 until such time as the documents may be destroyed pursuant to
32 section 50.19.

33 Sec. 20. Section 53.39, subsection 2, Code 2011, is amended
34 to read as follows:

35 2. All official ballots to be voted by qualified absent

1 voters in the armed forces of the United States at the primary
2 election, and the general election, and special elections for
3 representative in Congress shall be printed prior to forty-five
4 days before the respective elections and shall be available for
5 transmittal to such qualified voters in the armed forces of the
6 United States at least forty-five days before the respective
7 elections. The provisions of this chapter apply to absent
8 voting by qualified voters in the armed forces of the United
9 States except as modified by the provisions of this division.

10 Sec. 21. Section 53.40, subsection 2, Code 2011, is amended
11 to read as follows:

12 2. The commissioner shall immediately ~~on~~ after the ballots
13 are available and no later than the forty-fifth day prior to
14 the particular primary election, general election, or special
15 election for representative in Congress transmit ballots to
16 the voter by mail or otherwise, postage prepaid, as directed
17 by the state commissioner, requests for which are in the
18 commissioner's hands at that time, and thereafter so transmit
19 ballots immediately upon receipt of requests. A request for
20 ballot for the primary election which does not state the party
21 affiliation of the voter making the request is void and of no
22 effect. A request which does not show that the person for whom
23 a ballot is requested will be a qualified voter in the precinct
24 in which the ballot is to be cast on the day of the election for
25 which the ballot is requested, shall not be honored. However,
26 a request which states the age and the city, including street
27 address, and county where the voter resides is sufficient to
28 show that the person is a qualified voter. A request by the
29 voter containing substantially the information required is
30 sufficient.

31 Sec. 22. Section 53.47, Code 2011, is amended to read as
32 follows:

33 **53.47 Materials furnished by ~~department of administrative~~**
34 **services state commissioner.**

35 1. In order to establish uniformity in size, weight

1 and other characteristics of the ballot and facilitate its
2 distribution and return, the ~~department of administrative~~
3 ~~services shall upon direction of the~~ state commissioner
4 shall purchase any material needed for any special ballots,
5 envelopes, and other printed matter, and sell any such
6 materials to the several counties of the state at cost plus
7 handling and transportation costs.

8 2. There is hereby appropriated to the ~~department of~~
9 ~~administrative services~~ state commissioner from the general
10 fund of the state such sums as may be necessary to purchase
11 any materials provided for herein. The proceeds from sale of
12 such materials to counties shall be turned into the general
13 fund of the state upon receipt of same by the ~~department of~~
14 ~~administrative services~~ state commissioner.

15 Sec. 23. Section 69.14, Code 2011, is amended to read as
16 follows:

17 **69.14 Special election to fill vacancies.**

18 A special election to fill a vacancy shall be held for a
19 representative in Congress, or senator or representative in the
20 general assembly, when the body in which such vacancy exists is
21 in session, or will convene prior to the next general election,
22 ~~and the.~~ The governor shall order, not later than five days
23 from the date the vacancy exists, a special election, giving
24 not less than seventy-six days' notice of such election to
25 fill a vacancy in the office of representative in Congress or
26 forty days' notice of such election to fill a vacancy in the
27 office of senator or representative in the general assembly.
28 In the event the special election is to fill a vacancy in the
29 general assembly while it is in session or within forty-five
30 days of the convening of any session, the time limit provided
31 in this section shall not apply and the governor shall order
32 such special election at the earliest practical time, giving
33 at least eighteen days' notice of the special election. Any
34 special election called under this section must be held on
35 a Tuesday and shall not be held on the same day as a school

1 election within the district.

2 Sec. 24. Section 372.13, subsection 2, paragraph a, Code
3 2011, is amended to read as follows:

4 a. (1) By appointment by the remaining members of the
5 council, except that if the remaining members do not constitute
6 a quorum of the full membership, paragraph "b" shall be
7 followed. The appointment shall be made within forty days
8 after the vacancy occurs and shall be for the period until the
9 ~~next pending election as defined in section 69.12, and shall~~
10 ~~be made within forty days after the vacancy occurs~~ regular
11 city election described in section 376.1, unless there is an
12 intervening special election in that city, in which event the
13 election for the office shall be placed on the ballot at such
14 special election.

15 (2) If the council chooses to proceed under this paragraph,
16 it shall publish notice in the manner prescribed by section
17 362.3, stating that the council intends to fill the vacancy
18 by appointment but that the electors of the city or ward, as
19 the case may be, have the right to file a petition requiring
20 that the vacancy be filled by a special election. The council
21 may publish notice in advance if an elected official submits
22 a resignation to take effect at a future date. The council
23 may make an appointment to fill the vacancy after the notice
24 is published or after the vacancy occurs, whichever is later.
25 However, if within fourteen days after publication of the
26 notice or within fourteen days after the appointment is made,
27 there is filed with the city clerk a petition which requests a
28 special election to fill the vacancy, an appointment to fill
29 the vacancy is temporary and the council shall call a special
30 election to fill the vacancy permanently, under paragraph "b".
31 The number of signatures of eligible electors of a city for a
32 valid petition shall be determined as follows:

33 ~~(1)~~(a) For a city with a population of ten thousand or
34 less, at least two hundred signatures or at least the number of
35 signatures equal to fifteen percent of the voters who voted for

1 candidates for the office at the preceding regular election at
2 which the office was on the ballot, whichever number is fewer.

3 ~~(2)~~(b) For a city with a population of more than ten
4 thousand but not more than fifty thousand, at least one
5 thousand signatures or at least the number of signatures equal
6 to fifteen percent of the voters who voted for candidates for
7 the office at the preceding regular election at which the
8 office was on the ballot, whichever number is fewer.

9 ~~(3)~~(c) For a city with a population of more than fifty
10 thousand, at least two thousand signatures or at least the
11 number of signatures equal to ten percent of the voters who
12 voted for candidates for the office at the preceding regular
13 election at which the office was on the ballot, whichever
14 number is fewer.

15 ~~(4)~~(d) The minimum number of signatures for a valid petition
16 pursuant to ~~subparagraphs (1)~~ subparagraph divisions (a)
17 through ~~(3)~~ (d) shall not be fewer than ten. In determining
18 the minimum number of signatures required, if at the last
19 preceding election more than one position was to be filled for
20 the office in which the vacancy exists, the number of voters
21 who voted for candidates for the office shall be determined by
22 dividing the total number of votes cast for the office by the
23 number of seats to be filled.

24 Sec. 25. EFFECTIVE UPON ENACTMENT. The following
25 provision or provisions of this Act, being deemed of immediate
26 importance, take effect upon enactment:

27 1. The section of this Act amending section 43.24,
28 subsection 1, paragraph "b".

29 2. The section of this Act amending section 43.24,
30 subsection 2, paragraph "b".

31 3. The section of this Act amending section 43.88.

32 4. The sections of this Act amending section 44.4,
33 subsections 1 and 2.

34 5. The section of this Act amending section 53.39,
35 subsection 2.

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1 6. The section of this Act amending section 53.40,
2 subsection 2.

3 7. The section of this Act amending section 69.14.